

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2000.03
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	February 7, 2003
DATE OF REPORT:	March 5, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	March 21, 2003

**COMPLAINT ISSUES:**

Whether the MSD Wayne Township and West Central Joint Services violated:

511 IAC 7-27-7 (a) by failing to implement the student's IEP as written.

511 IAC 7-27-4(a)(4) and 511 7-22-2 by failing to convene case conference committee (CCC) meetings and by failing to provide prior written notice before changing the placement of students enrolled in the Affective Education class.

511 IAC 7-27-7(b) by failing to fulfill the duties of the teacher of record, including the activities identified in 511 IAC 7-17-72.

**FINDINGS OF FACT:**

1. The student (the "Student") is fifteen years old and is eligible for special education and related services as a student with a mild mental disability and a communication disorder.
2. As listed in the Student's *Case Conference Summary/IEP* (the "IEP"), the Student's special education services are described by course names (e.g., MiMD Math) and consist of instruction in modified curricula including curricula based upon local Safety Net Standards.
3. During the first semester of the 2002-2003 school year, the Student's teacher (the "Teacher") for mathematics, social studies, directed study/affective education, and homeroom became ill. At the beginning of second semester, the Teacher did not return to the Student's school.
4. A long-term substitute ("Substitute # 1") was hired to replace the Teacher, beginning January 7, 2003. Substitute #1 holds a *Substitute Teacher's Certificate* issued by the Indiana Professional Standards Board. As of January 23, 2003, a decision was made to replace Substitute #1 with another long-term substitute teacher. Substitute #2, who holds a *Substitute Teacher's Certificate* issued by the Indiana Professional Standards Board, taught on January 24, 2003. Substitute #3 began a long-term substitute assignment on January 27, 2003, and continues in this position. Substitute #3 holds a *Substitute Teacher's Certificate* issued by the Indiana Professional Standards Board.
5. On or about February 5, 2003, the principal (the "Principal") of the Student's school began to search for a licensed special education teacher to replace the Teacher. As of the date of this Report, the Principal has not been successful.

6. Substitute #1 was provided with two weeks of lesson plans prepared by the Teacher. In addition, the special education department chair (the "Department Chair") provided to Substitute #1 and Substitute #3 curricular materials and information regarding the modified curricula and the content of the courses.
7. During the three-week period in which Substitute #1 was teaching, Substitute #1 was unable to manage the classroom both instructionally and behaviorally. The Department Chair worked with Substitute #1 to improve the situation. One of the interventions employed was to reduce the number of students during the Directed Study/Affective Education class, by moving 7<sup>th</sup> and 8<sup>th</sup> grade students from Substitute #1's classroom to the Department Chair's classroom. As an 8<sup>th</sup> grader, the Student was among those who moved to the Department Chair's classroom for a double period on each of four (4) school days (January 16, 22, 24, and 28, 2003).
8. The Student's IEP identifies a study skills goal for Directed Study. The IEP does not identify goals or skills to be learned in Affective Education (conflict resolution or interpersonal skills, for example). The IEP identifies Directed Study/Affective Education as a single class, without specifying the amounts of time to be devoted to each of the two components of the class.
9. The Department Chair holds a professional (life) license with an endorsement for teaching students with mental disabilities.
10. The Teacher had served as the Student's teacher of record during the first semester of the 2002-2003 school year. During that semester, the Teacher fulfilled the duties expected of a teacher of record.
11. Since January 6, 2003, the Teacher has been working at another building in the same school corporation. During second semester the Teacher has not fulfilled the duties of the teacher of record for the Student. The Teacher did not take the Student's IEP or other records to the Teacher's new building.
12. From January 7, 2003, through February 28, 2003, no special education teacher was identified as the Student's teacher of record.
13. On March 3, 2003, the Principal designated a special education teacher as the Student's teacher of record ("newly-designated Teacher of Record"). The newly-designated Teacher of Record is appropriately licensed to be the Student's teacher of record and, as one of the Student's teachers of service, is already familiar with the Student.

## **CONCLUSIONS:**

1. Findings of Fact # 2 and #6 indicate that the Student's IEP has been implemented by providing instruction in the curricula and course content contemplated by the IEP. Generally, IEPs do not dictate specific lesson plans or teaching methodologies. Finding of Fact #5 indicates that a search for an appropriately licensed teacher is underway. The employment of substitutes in the interim, as indicated by Finding of Fact #4, does not constitute a failure to implement the Student's IEP as written. Therefore, no violation of 511 IAC 7-27-7(a) occurred.
2. Finding of Fact #7 indicates that a change of location occurred, and Finding of Fact #8 indicates that the change of location did not affect the goals and objectives of the IEP. Finding of Fact #9 indicates that the change of location involved a change to the classroom of an appropriately licensed teacher. A change of location that does not affect IEP goals and objectives is not a change of placement, as

defined at 511 IAC 7-17-13(a)(4). A case conference committee meeting and prior written notice are not required when a change is not a change of placement, as defined in 511 IAC 7-17-13. Therefore, no violation of 511 IAC 7-27-4(a)(4) and 511 IAC 7-22-2 occurred.

3. Findings of Fact #3, #10, #11, and #12 indicate that, from the beginning of second semester through February 28, 2003, the Student was not assigned to an appropriately licensed special education teacher designated as the Student's teacher of record. Each student with a disability must have an identified teacher of record who is responsible for the activities listed in 511 IAC 7-17-72. Therefore, a violation of 511 IAC 7-27-7(b) occurred. However, Finding of Fact #13 indicates that a corrective action has been taken.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

MSD Wayne Township shall notify the Complainant of the name and school telephone number of the newly-designated Teacher of Record for the Student. MSD Wayne Township shall also notify the parents of other similarly-situated students who have been assigned to the newly-designated Teacher of Record. A copy of the letter or notice to the Complainant and other parents shall be sent to the Indiana Department of Education, Division of Exceptional Learners by March 31, 2003.